

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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JOSEPHINE CRUZ,

Plaintiff,

-against-

MICHAEL J. ASTRUE, Commissioner  
of Social Security,

Defendant.  
-----X

DEBORAH A. BATTS, United States District Judge.

This matter is before the Court upon a Report and Recommendation ("Report") of United States Magistrate Judge Lisa Margaret Smith, which was filed July 19, 2010. Plaintiff seeks judicial review of the final decision of the Commissioner of Social Security's finding that she was not entitled to supplemental security income under the Social Security Act. The Report recommends that Defendant's Motion for Judgment on the Pleadings be GRANTED and that Plaintiff's case be dismissed with prejudice.

According to 28 U.S.C. § 636(b)(1)(C), "[w]ithin fourteen days after being served with a copy, any party may serve and file written objections to such proposed findings and recommendations." 28 U.S.C. § 636(b)(1)(C); see also Fed. R. Civ. P. Rule 72(b)(2) (stating that "[w]ithin 14 days after being served with a copy of the recommended disposition, a party may serve and file specific, written objections to the proposed findings and recommendations"). On August 2, 2010, Plaintiff

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sent a "Petition of Objection" to the Court to say that she believed her medical impairment fell within the legal definition of a disability. (Pl.'s Aug. 2, 2010 Petition). Plaintiff requested "more time to gather and submit all medical evidence." (Id.) On August 19, 2010, the Court extended Plaintiff's time to object to the Report to September 9, 2010. Plaintiff filed nothing further. This Court will therefore treat Plaintiff's August 2, 2010 "Petition of Objection" as an Objection to the Report. See In re Sims, 534 F.3d 117, 133 (2d Cir. 2008) ("[C]ourts are, for example, to construe a pro se litigant's pleadings and motions liberally.").

"[A] pro se party's objections to the Report and Recommendation must be specific and clearly aimed at particular findings in the magistrate's proposal, such that no party will be allowed a second bite at the apple by simply relitigating a prior argument." DiPilato v. 7-Eleven, Inc., 662 F. Supp. 2d 333, 340 (S.D.N.Y. 2009) (citing Pickney v. Progressive Home Health Services, No. 06 Civ. 5023, 2008 WL 2811816, at \*1 (S.D.N.Y. July 21, 2008)). Here, Plaintiff's Objection lacks specificity and merely reiterates her original claim. This Court will therefore review the Report for clear error.

Having reviewed the Report, and finding no clear error on the face of the record, see 28 U.S.C. § 636(b)(1)(B), it is hereby

ORDERED AND ADJUDGED as follows:


1. The Report and Recommendation, Docket Entry No. 13, of United States Magistrate Judge Lisa Margaret Smith, dated July 19, 2010, be and the same hereby is APPROVED, ADOPTED, and RATIFIED by the Court in its entirety;

2. Defendant's Motion for Judgment on the Pleadings is GRANTED, and Plaintiff's Complaint is dismissed WITH PREJUDICE;

3. The Clerk of Court is directed to CLOSE the docket in this case.

SO ORDERED.

DATED: New York, New York  
November 18, 2010

  
Deborah A. Batts  
United States District